

DRAFT EXTRACT FROM FEBRUARY 10, 1999 FACULTY SENATE MEETING ON DISCUSSION OF RESOLUTION ON CAMPUS CLIMATE

Associate Professor Kerry Cook, Soil, Crop, and Atmospheric Sciences: "At the end of the December meeting, in the Good and Welfare time, I spoke to you on behalf of the UFC to see if you wanted the UFC to pursue ways for the Faculty Senate to contribute to the improvement of the environment for minorities on campus. While there was no dissent in a straw vote to pursue this issue, during the discussion time a couple of senators requested more information about the incidents that have been occurring on campus and about the degrading of the campus climate for diversity. While we didn't feel it was constructive or appropriate for the UFC to become investigators or interpreters of these incidents, steps have been taken to make the information easily available to you, mainly through Dean Cooke's efforts with the University Faculty website, where you can also find out about other faculty-based ways to address the issue. You've just heard Dean Ford's comments that Cornell is getting the reputation as an unwelcome place for minorities, and speaking for myself, I find that pretty embarrassing and totally unacceptable.

"Because timing was important and because some faculty did not seem to be aware of the incidents on campus, the UFC sent out a letter to the full faculty at the beginning of the semester. You all should have received this letter. The letter draws attention to the campus climate issue, it really defines the campus climate issue for the faculty, alerts the faculty to the problem in a general way, and guides them to the website. It also solicits ideas for faculty involvement.

"Today we are bringing before the Senate a Resolution on Campus Climate. The purpose of the resolution is to express the Faculty Senate's concern for and interest in the intellectual and social environment at Cornell as it relates to diversity. You should all have a copy of the resolution. I'll read through it.

Whereas, Cornell University is committed to providing an environment that permits equal opportunity for all members of the community to fulfill their potential for intellectual and social growth and that also permits the free and open exchange of opinions and ideas, and

Whereas, the use of harassing speech or actions directed against particular individuals or particular groups of individuals on the basis of their race, ethnicity, sex, sexual orientation, national origin, or religion is not a legitimate part of that exchange, and damages the trust and mutual respect essential to the well-being of our community,

THEREFORE BE IT RESOLVED that the Cornell Faculty Senate urges the Cornell faculty to play a more active role in ensuring a safe and open campus environment.

"Do I need to ask for unanimous consent?"

Acting Speaker Hines: "Yes, this has been amended, there is a slight change in the original wording, so we need to adopt this. I'd like to ask for unanimous consent of this small word change? Are there any objections? Then we'll adopt the amendment."

Professor Cook: "I'm a little worried when people see this resolution. They might think that it's a bit too much, a bit too apple-pie and motherly. But let me remind you that the faculty silence on these issues has been noted across campus particularly by the students and this resolution is being presented as one step in our speaking out to keep or maybe retain an inclusive society at Cornell. It's a bit of a tight rope walk to maintain an open society but I hope that the faculty speaking out through this resolution and in other ways, again, I'll refer you to the website, might help the campus climate for everyone at Cornell. Thank you."

Acting Speaker Hines: "Okay, the motion is on the floor. Are there any questions or comments?"

Professor Ballantyne: "Is there some sort of definition of 'harassing speech or actions'? Is any speech harassing?"

Associate Professor Risa Lieberwitz, Industrial and Labor Relations: "I'm on the UFC and we had a discussion about how to word this and there isn't one tight definition of what is harassing. One of the operative pieces here was the direction of the speech or actions toward individuals or groups of individuals as opposed to a notion of general speech that is made at a rally or something. The notion is this derogatory speech or conduct made toward individuals or groups of individuals is both the content, in terms of the derogatory speech, and also the direction towards the particular groups of individuals or particular individuals."

Professor Gordon Teskey, English: "Does this resolution include a campus speech code?"

Professor Cook: "No."

Acting Speaker Hines: "Are there any other questions or comments?"

Associate Professor Walter Mebane, Government: "Again, this issue of harassing speech makes me extremely nervous. Putting things together seems to say that harassing speech, which is quite vaguely defined, means a lot of things and that it should be protected by academic freedom would be undesirable because it is dangerous speech. I don't know if it's open to amend this, but it seems to me that it is very hazardous. 'Harassing' speech will be up to the perceiver and we've all heard of people objecting to contents of lectures because they feel personally insulted or attacked."

Acting Speaker Hines: "According to rules of Faculty Senate, you cannot amend it without sending the amendment out a day in advance."

Dean Cooke: "Unless there's unanimous consent for a change."

Professor Mebane: "Well, I think that this issue of the vagueness of harassment and the movement towards particular groups as opposed to individuals puts this resolution in a very ambiguous and not necessarily positive light. I think that it would be unambiguous and positive to refer to harassing actions directly against individuals, which I think would cover all of the incidents that were complained about and so horrible in the fall. There is some ambiguity about actions versus speech but I think that there is much less ambiguity for what that would mean. So, I would very much support a resolution that referred to harassing actions directed at particular individuals on the basis of race and sex, but that is too vague."

Professor Lieberwitz: "You know, I think that the concern for free speech and academic freedom is a real one and one that should be taken seriously. It's one that I take seriously, as well. It seems to me that there are two things to that. One is that we really were focused on the notion of when speech was included, not a general notion of speech that someone might hear at a rally and say 'Well, I don't like that speech, it's harassing,' as opposed to speech directed at individuals in either a one-on-one or let's say a one on a small group working together. So that the group reference here is one of individual as opposed to groups in general. So that was the attempt to take it out of the general speech being put out of that route."

"The other thing is that we didn't have any contemplation in our discussion about this leading to a speech code. This is put in there as background to recognize that this kind of speech directed at particular individuals either alone or in a particular group of individuals, really does take away from the notion of a place where people can learn comfortably and safely. The faculty should play a role to be more active in trying to create an environment which would avoid that sort of degradation on either one-on-one or small

group kind of basis. So there was an attempt to protect academic freedom and free speech. "

Associate Professor Robert Harris, Africana Studies and Research Center: "I understand Professor Mebane's concern. He seemed to ask for a distinction between individuals and groups. Yet, in some ways, this is in response to situations that occurred in the fall -- someone shouting racial epithets at Ujamaa Residential College that were not directed at particular individuals but were directed at the residents of that particular college. This is a situation that has been referred to the Judicial Administrator and is in process. Also, the situation of the fire being set in front of Akwe:kon, again, it's hard to identify that this is a situation threatening against particular individuals, although it was basically directed towards the residents of this house. That's why I think groups of individuals is included here as opposed to just actions or speech directed at identifiable individuals."

Professor Mebane: "I know I'm speaking out of turn, but I understand the intent, I just don't think it's necessary to add the language. All the residents living in that building would be named as targets. The intent here is to protect a targeted minority but the language there could easily be used to suppress or legitimately constitute a suppression of a protest by a minority against harassing acts by larger groups whom they cannot identify."

Professor Richard Baer, Natural Resources: "I would hope that if we're serious about diversity that we would also address intellectual diversity. I wrote the Provost and also Bob Cooke memos some months ago on intellectual diversity, and never received an answer. It's my experience that this university does not welcome diversity of ideas in many ways. I was introduced to this in a way that I would not have chosen five or six years ago when group of students came to me and asked me to help them deal with what they felt was severe discrimination against them as religious students, and politically conservative students in the College of Human Ecology. We met four or five times and talked about these issues, and then asked the Dean and the Associate Dean and a couple of department chairs if we could meet with them and discuss these issues. They would not even agree to sit down and talk with us about these issues, and it was not until about nine months later when President Rhodes contacted the Dean that they even agreed to talk with us about intellectual diversity of ideas.

"I think that if we're going to talk about diversity, we're going to have to look at what Universities are about. They're not just about skin color, as important as that is, or other kinds of diversity of people -- they're about diversity of ideas and there is enormous censorship by omission in this university. We make very little effort to get genuine diversity of ideas. Look at departments like government, where we have maybe roughly 30 faculty, and one conservative, Jeremy Rabkin. Where's some attempt to expose our students to some real diversity of ideas? Human Development and Family Studies is an intellectual disgrace. They were totally closed to the idea of bringing in faculty who were intellectually competent to really bring in some diversity of ideas. But what about the kinds of response from the administration when an issue, I think it was the Cornell Review, was snatched up and then disposed. I think our President got the Sheldon Award that year for precisely that action. I would hope that if we're going to talk about diversity, we talk about it in a way that is fundamental to universities, and that is diversity of ideas. In some significant respect, this university is a very narrow gauged institution and very hostile to certain kinds of intellectual diversity.

"We see it in other respects, such as the SAFC funding, which discriminates powerfully against religious groups on campus. The code says that if you're a religious group, you don't get funding. The reasons are that religious groups are often controversial and they try to proselytize -- as if environmental groups and animal rights groups and others do not do the same things.

"I welcome the discussion of diversity in the sense that we have talked about it, but I think that we do have some very serious problems. I would like sometime, Bob and Don Randel and others, even to have the

courtesy of a reply to a six or eight page memo that I wrote you some months ago on the subject. I would hope that we would extend the discussion because universities are also, and I'm almost embarrassed to say this, but they're also about ideas, and this is a university where it is very, very difficult to get exposed to various kinds of ideas because they're simply not welcomed here and we may very well attempt to see that that happens. Obviously, we're too sophisticated to censor an individual faculty person after that person is here, but we make very little effort to get real diversity of ideas in many departments in this institution. I think in many cases what we call education is more like indoctrination than the kind of vital, lively encountering of different ideas that the university education ought to be."

Professor Locksley Edmondson, Africana Studies and Research Center: "I sincerely hope that conservatives are not being harassed by bigoted liberals, but this issue isn't about that. It's about harassment. This thing has no implication or any types of sanctions. Even if the Faculty Senate wanted to apply sanctions, there would probably be a problem with it. All it simply says is that in a community like Cornell, which is presumed to be intellectual, open to free exchange of ideas and tolerance, some exercises of free speech are less acceptable than others. You can argue that the people of the Klu Klux Klan have a right to speak, and many people do, but does it mean that we should be silent because of that right and that we still don't find that speech unacceptable? This is only saying that, and I want to say to you that you should try to put yourselves in the position of harassed minorities of living on campus with small children. We do not have an interest in proclaiming racism because we cannot fight it and many people do not realize that. So I'm just saying simply that it is a simple worded document that we find some patterns of speech and behavior not acceptable in this context, and we'll work to try to sensitize the community to reduce it."

Acting Speaker Hines: "Any other questions or comments? Yes?"

Mary Beth Norton, Mary Donlon Alger Professor of American History: "I wanted to align myself with the intent of this motion. I was utterly appalled in the Fall when I heard about the incidents on campus. I regard my relationship with my students in my classroom as extremely important, and I found it really horrifying that some of these things were going on outside the classroom. I think it's extremely important for the Senate to adopt this resolution and I put my emphasis on the resolution class, and how important it is to urge the faculty to play a more active role in ensuring the safe and open campus environment. I, myself, am more than willing to do that."

Acting Speaker Hines: "Any other questions?"

Professor Teskey: "I would like to see just the resolution at the end rather than the two whereas paragraphs. I share Professor Mebane's concern about the phrase, 'harassing speech.' I can understand that there can be speech which is unacceptable to the community, but it still disturbs me a bit. I teach a course on the Bible in which it could be thought that there are occasionally things that are offensive to blacks, Jews, women, etc. Often, harassing speech can only be defined as 'that to which somebody else takes offense.' Or we could get into an atmosphere where we are attempting to police language, and as a professor of English, I'm nervous about an atmosphere when language becomes policed. Criticized, yes, but policed, no. I'll mention one other incident and that would simply involve a tenure review case, where a letter from a student who was otherwise appreciative of the professor was otherwise disturbed at very coarse language that was occasionally deployed by the professor. We looked at the nature of the course, and realized that the language was being used for good reasons, but the student chose not to discuss it with the professor, from which an interesting dialogue could have arose, and chose to instead regard it as harassing speech and wrote a letter for a tenure file. So I remain nervous about the phrase 'harassing speech.' I understand what offensive speech is, I've heard it, and it is offensive and disgusting, but I'm nervous about putting that phrase in this document and because it can be abused."

Professor Peter Stein, Physics: "I consider myself a hawk on the issue of free speech and I do remember a year ago or however long ago it was, discussing very similar wording in the course of talking about the sexual harassment vote. And indeed, we had many debates in committee, and possibly on this floor, about a very similar phrase, namely, directed at particular groups, or particular individuals or groups. In fact, I argued against having the groups in there by just this same argument where people said that that extends it to general statements and the harassing speech should be only confined to when individual speech is confined to individual people. As an example, if it's only forbidden against one person, that if you say 'you're stupid and you're stupid, and I don't like either of you' then it would be okay' because you were doing it against two people, and that seemed silly. In that sense, I found myself on the same side of the issue with regard to sexual harassment as Professor Teskey does here. I think that Professor Edmondson hits the nail on the head because this is a very different situation. With the sexual harassment procedure, we were defining what is punishable and what actions would be sanctioned. And it seems to me that this is a very different situation than making a statement on what we think is desirable in a community. There are certain publications, and I won't mention names, that publish things that I think are reprehensible, but I certainly wouldn't stand up to their right to do it because that's part of free speech. Nonetheless if they ask my advice I would say that they were really damaging Cornell by publishing those things that you have a right to publish because you do poison the atmosphere here for a significant and important part of our constituency, and therefore, I would advise you against it. So I have no problem with the wording in this resolution because we are simply stating our opinion that it is unwise and unhealthy for that broader classification of speech, which is legal, for people to do that. I have no hesitation myself for endorsing that view and voting for it."

Professor Terrence Fine, Electrical Engineering: "I'm very concerned by what Peter just said. I think he has opened a door that I would like to see resolutely closed. I strongly support the first and third paragraphs and I can support much of the second paragraph, but not all of it. I don't have any problems with 'actions'; I don't think that we have the right to set fires in front of other people's homes. That has nothing to do with free speech, academic freedom, or what have you. I am concerned about the extension of the harassing speech clause against groups, and I am very concerned about the defense of that, which was just made, that if we can come together as right-minded people about disliking something, we can have a faculty statement on the issue. It isn't exactly punitive, but it will have the Cornell stamp. I really think that's not getting it at all. I'm inclined to support most of it, but not all of it for reasons presented by Professor Teskey. Thank you."

Dean Cooke: "I just have a comment on parliamentary status, since there seems to be some confusion. The rules are that if you have an amendment, you must send it out to the other members of the Senate 24 hours before. We send ours out a week early, so if you have any changes you want brought before the body, send them to the Dean of the Faculty's office and we will send them out to the Senate so you have knowledge ahead of time. There are several options open to you, and I'm not intending to imply any course of action here, but you can adopt it as is, or you can reject it as is. Or you could send it back to committee if you feel that there are parts that are too objectionable, but you cannot change it."

Associate Professor Alan McAdams, JGSM: "Bob, I think that if we had unanimous consent, we could change it."

Dean Cooke: "Well, if you have unanimous consent, I think you should change it then."

Professor Barry Carpenter, Chemistry and Chemical Biology: "I've been working hard to figure out how this resolution could lead to an inhibition of anybody's free speech. I have been unable to come up with a scenario that could lead to that event, so I wonder if the people who have been objecting to the language on that basis could give me a plausible scenario by which freedom of speech could be inhibited by the passage of this resolution."

Professor Mebane: "I just wanted to say that I don't write plays, so coming up with scenarios is kind of hard. In general, a scenario that could be covered by this resolution would be if you have a student of color who wants to express his/her concern over the poor climate for students of color on campus, who might, in a conversation with a group of racially, ethnically, and gender mixed students, make strong arguments about how he or she feels oppressed by the racist environment, maybe naming some individuals with whom the person has had bad interactions. As a result of that, some of the students in the group hearing this person may protest against some proceeding in general and this resolution would only say that they would feel empowered to respond to that person's complaint by saying, 'I feel oppressed by your saying that there's a racist environment on campus and I'm a member of the group that you think is racist, and so your speech is harassing me.' That's a scenario that concerns me that is not at all contemplated by the intention of this."

Professor Carpenter: "I'm failing to understand how that is at all related to what would actually be resolved."

Professor Mebane: "I'm sorry I assume that then a faculty member would feel obligated or at least encouraged to confront that student of color and say, 'You ought not to complain about the racist environment on campus because your complaint can be considered harassing.' You may laugh at this, but in fact, I've complained about harassment directed at me, in my department, to my own colleagues, and I've received just that response. So it's not far-fetched, it's a reality. So those complaining, may, in fact, be sanctioned for their complaints. I feel extremely powerfully motivated to support an action against and condemning harassing actions. Speaking from personal experience, it is a very damaging thing to have happened in this environment, as it has happened to me, and I'm clinging specifically to the hazards of bringing in challenges to free speech as part of what is an excellent proposal otherwise. In fact, I'm in a quandary as to whether it remains unamended, which I would like to propose unanimous consent for an amendment, if there's an opportunity to do that, whether I would vote for encouraging the resolution despite my qualms about the 'whereas' in the second paragraph."

Acting Speaker Hines: "Are you proposing an amendment to strike that 'groups' clause?"

Professor Mebane: "If I may do that I would like to rewrite the second paragraph to say, 'Whereas the use of harassing actions directed against particular individuals on the basis. . .' I'm sorry I'm too blind to see it. . ."

Acting Speaker Hines: "So you're trying to strike the speech part?"

Professor Mebane: "'Speech or' and 'or particular groups of individuals'."

Acting Speaker Hines: "Okay, we've got a resolution to strike 'speech or' and 'or particular groups of individuals,' which we need unanimous consent to be passed. Are there any objections to this amendment? (Some senators object) Okay then, this will not pass."

Professor Howard Howland, Neurobiology and Behavior and Physiology: "The problem with this motion, I think is a non sequitur. There's a danger here. If you put a bunch of statements together that say A is true, B is true, and C is true, and then a non sequitur follows about something else, you're asking for trouble. That's the problem here. I'm sorry if I don't see that as the conclusion, 'Therefore be it resolved. . .' as logically following what's above. I think when you stuff a motion full of assertions that people may or may not agree with and then come out with a conclusion which everybody has to agree with, you're in for trouble. I would recommend, since I don't think it's legal to make a motion after having spoken, but I would hope that someone would make a motion to return this to committee."

Professor Donald Barr, Policy Analysis and Management: "I attended the sessions at Akwe:kon and at Ujamaa, and actually, LeNorman Strong and John Ford, the Dean of Students, were there, to hear from students. And I simply want to say that it was one of the most gut-wrenching, difficult, and in some ways, terrifying sessions that I have ever participated in. To hear our students speak, cry, sob, was truly something that I'll never forget. I guess the thing that I'm truly concerned about is that I think we need to talk about what a 'more active' role means. It is an easy thing to write up there, but I think that the gap between the classroom and the residence hall is wide. I think we do need to talk about different things in relation to this involvement. I know I'm not speaking directly to the motion, but I am speaking to its intent. I asking that at one point, we do that. Thank you."

Professor Baer: "In answer to an earlier question about examples, I forget how you phrased it, my concern is also with the harassing speech. If you engage in this, you're acting in an illegitimate way, you're damaging trust and respect that are essential to the community, and those are pretty serious charges. You're becoming illegitimate. You're damaging what's essential to the community and we don't know what this is yet. There's a lot of discussion about harassing speech. We have many, many examples where people have suffered and have been harassed as faculty for having been accused of harassing speech. I don't want to risk being called illegitimate and as damaging to what is essential to this community unless I know a little more about what I'm buying into. I think that's pretty threatening to traditions of free speech and academic freedom that are very important to universities."

Professor Fine: "I'd like to move to return this to committee to be returned to the Senate at its next regular meeting." (Someone seconded)

Acting Speaker Hines: "Okay, we'll now vote to send this back to committee to bring back next time. All those in favor? Excuse me, is there any debate?"

Professor McAdams: "Can I offer an amendment to this motion?"

Dean Cooke: "A motion to refer?"

Professor McAdams: "I'd like a point of order. I would like to see if there is a parliamentary procedure to have a vote on whether we could have the first and third paragraphs of this voted on as something we can do today to express our outrage about what has been going on on our campus and having the effects which have just been discussed. I think it is absolutely important to do something. We may be looked upon as nit-picking, although all the issues we have been talking about are important. Is there some way that we could go forward with the vote where the first and third paragraphs could be the motion?"

Dean Cooke: "Professor Martin is out of town today, so I'm serving as Acting Parliamentarian, and you may not bring the same question back before the assembly. There was a vote for unanimous consent to delete number 2."

Professor McAdams: "No, to modify it."

Dean Cooke: "Okay."

Acting Speaker Hines: "Okay, we're debating whether or not to bring this back to committee."

Associate Professor Michael Shapiro, Communication: "I guess I'm going to vote against the motion to defer this, because we've waited entirely too long to do something about this. I do have a suggestion of how we could reword the second paragraph, to say something like, 'the use of harassing speech or actions solely directed at making people feel unwelcomed on campus' might be a way to satisfy everybody, but maybe

not. In any case, I don't think we should put this off."

Acting Speaker Hines: "Okay, we are running out of time so are there any more comments? Peter?"

Professor Stein: "Move the question."

Acting Speaker Hines: "Everyone in favor of sending this back to committee, please raise your hand."

Professor McAdams: "I will ask unanimous consent on whether we can vote to approve this resolution embodying only the first and third paragraphs. Deleting the second paragraph. (Objections) Fine."

Acting Speaker Hines: "Okay so now we'll vote on the entire resolution as it is written here. We're voting on the motion as it is written here. All those in favor, please raise your hand. Okay, those opposed? The motion passes. Okay, now we'll move on to the next item on the agenda, which is the Resolution on the Reformulation of the Minority Education Committee and I'll ask Associate Dean Rasmussen to introduce this."